



Richmond Valley LEP 2012 – draft amendment to correct zoning errors in Evans Head, Busbys Flat and Broadwater

Proposal Title : Richmond Valley LEP 2012 – draft amendment to correct zoning errors in Evans Head, Busbys Flat and Broadwater

Proposal Summary : The Planning Proposal seeks to make three (3) amendments to the Richmond Valley LEP 2012. These amendments constitute the following.

- 1 –Amend a zoning error on land located at 760 Woodburn-Evans Head Road, Evans Head (Lot 475 DP755624). The proposal seeks to zone the subject site from IN1 General Industrial to RU1 Primary Production, amend the minimum lot size from 5000 m2 to 40 ha and include the subject site on the Dwelling Opportunities Map.
• 2 – Amend a zoning error on land located at 3280 Busbys Flat Road, Busbys Flat (Lot 11 DP777379). The proposal seeks to zone the subject site from RU3 Forestry Zone to RU1 Primary Production and W1 Natural Waterways and apply a minimum lot size of 100 ha to the RU1 Primary Production zone.
• 3- Amend a zoning error on land located at Broadwater National Park. The proposal seeks to zone the subject site from SP2 Infrastructure (Waste or Resource Management Facility) to E1 National Parks and Nature Reserves.

PP Number : PP\_2015\_RICHM\_003\_00 Dop File No : 15/16552

Proposal Details

Date Planning Proposal Received : 13-Nov-2015 LGA covered : Richmond Valley
Region : Northern RPA : Richmond Valley Council
State Electorate : CLARENCE Section of the Act : 55 - Planning Proposal
LEP Type : Housekeeping

Location Details

Street : 760 Woodburn-Evans Head Road
Suburb : Evans Head City : Postcode :
Land Parcel : Lot 475 DP755624
Street : 3280 Busbys Flat Road
Suburb : Busbys Flat City : Postcode :
Land Parcel : Lot 11 DP777379
Street :
Suburb : City : Postcode :
Land Parcel : Broadwater National Park

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**DoP Planning Officer Contact Details**

Contact Name : **Katrina Burbidge**  
Contact Number : **0266416600**  
Contact Email : **katrina.burbidge@planning.nsw.gov.au**

**RPA Contact Details**

Contact Name : **Tony McAteer**  
Contact Number : **0266600300**  
Contact Email : **tony.mcateer@richmondvalley.nsw.gov.au**

**DoP Project Manager Contact Details**

Contact Name : **Paul Garnett**  
Contact Number : **0266416600**  
Contact Email : **paul.garnett@planning.nsw.gov.au**

**Land Release Data**

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :
MDP Number :	Date of Release :
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :
No. of Lots : <b>0</b>	No. of Dwellings (where relevant) : <b>0</b>
Gross Floor Area : <b>0</b>	No of Jobs Created : <b>0</b>

The NSW Government **Yes**  
Lobbyists Code of  
Conduct has been  
complied with :  
If No, comment :

Have there been **No**  
meetings or  
communications with  
registered lobbyists? :  
If Yes, comment :

**Supporting notes**

Internal Supporting **Nil**  
Notes :  
External Supporting **Nil**  
Notes :

**Adequacy Assessment**

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**Statement of the objectives - s55(2)(a)**

Is a statement of the objectives provided? **Yes**

Comment : **The statement of objectives adequately describes the intention of the planning proposal. The proposal seeks to amend the Richmond Valley LEP 2012 to facilitate three site specific errors which occurred during the development of Richmond Valley LEP 2012.**

**Explanation of provisions provided - s55(2)(b)**

Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The amendment to the Richmond Valley LEP 2012 involves three issues. The planning proposal adequately describes the issues as well as providing copies of proposed LEP maps.**

**Justification - s55 (2)(c)**

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

**1.1 Business and Industrial Zones**

**1.2 Rural Zones**

\* May need the Director General's agreement

**1.5 Rural Lands**

**2.1 Environment Protection Zones**

**4.1 Acid Sulfate Soils**

**4.3 Flood Prone Land**

**4.4 Planning for Bushfire Protection**

**5.1 Implementation of Regional Strategies**

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

**SEPP (Rural Lands) 2008**

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **Yes. Refer to the assessment section of this report.**

**Mapping Provided - s55(2)(d)**

Is mapping provided? **Yes**

Comment : **The proposal includes mapping which adequately shows which properties are affected by the proposed amendments.**

**Community consultation - s55(2)(e)**

Has community consultation been proposed? **No**

Comment : **The RPA has requested to have the community consultation waived by the Gateway Determination. The RPA states the planning proposal is correcting zoning errors which were made during the development of the comprehensive Standard Instrument LEP – the Richmond Valley LEP 2012. The RPA considers the matters minor in nature, will not have any significant impact on the environment or adjoining land and is supported by Clause 73A of the EP&A Act which expedites amendments to planning instruments. The RPA considers the planning proposal compliant with clause 73A(1)(b) as it is minor in nature and clause 73 (1)(c) as the planning proposal is dealing with matters that will not have any significant adverse impacts.**

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It is considered consultation is necessary for the planning proposal as the matter is not deemed minor in nature under clause 73A(1)(b) due to the following reasons.

- Amendment 1 affects land held in private ownership. Owners of the subject site were not originally consulted for the zoning change during the development of the Richmond Valley LEP 2012. The RPA reported the change in zone has caused the owners financial hardship as they are not able to refinance a residential loan. While the RPA states the owners have been consulted, given the previous errors in the consultation process a formal consultation process will be necessary.
- Amendment 2 affects land held in private ownership. The report to the Council meeting on 20 October 2015 states while the owners have been informed of the zoning change a response has not been received. Given a proportion of the site is proposed to be zoned W1 Natural Waterways a formal consultation process will be necessary to ensure the owners are aware of the changes to the subject site.
- Amendment number 3 comprises the rezoning of Broadwater National Park. The site is held in the ownership of the Crown and managed by NSW National Parks and Wildlife. The report to the Council meeting on 20 October 2015, states the National Parks and Wildlife have been consulted however, consultation with the Department of Primary Industries (Lands) has not occurred. Department of Primary Industries (Lands) as the owners of the land will need the opportunity to comment.

Clause 56 of the EP&A Act sets out the community consultation requirements for planning proposals. The proposal is considered to be low impact as it is consistent with the strategic planning framework and does not present issues with regards to infrastructure servicing or reclassify land. It is therefore recommended a community consultation period of 14 days is appropriate.

**Additional Director General's requirements**

Are there any additional Director General's requirements? **No**

If Yes, reasons :

**Overall adequacy of the proposal**

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

The planning proposal satisfies the adequacy criteria by;

1. Providing appropriate objectives and intended outcomes.
2. Providing a suitable explanation of the provisions proposed for the LEP to achieve the outcomes.
3. Providing an adequate justification for the proposal.
4. Providing a project time line
5. Completing the evaluation criteria for the delegation of plan making functions.

**Time Line**

The planning proposal includes a project timeline which estimates the completion of the planning proposal in February 2016. To ensure the RPA has adequate time to complete exhibition (for a period of 14 Days), reporting, map preparation and legal drafting it is recommended that a time frame of 6 months is appropriate from the week following the Gateway determination.

**Delegation.**

Council has indicated it is prepared to accept an Authorisation to exercise delegation for this proposal. An Evaluation Criteria For the Delegation of Plan Making Functions has been provided. The proposal is considered to be consistent with the strategic planning framework and of local planning significance. It is recommended that an Authorisation for the exercise of delegation be issued.

**Proposal Assessment**

**Principal LEP:**

Due Date :

Comments in relation to Principal LEP : **The Richmond Valley LEP 2012 was made in April 2012. This planning proposal seeks an amendment to the Richmond Valley LEP 2012**

**Assessment Criteria**

Need for planning proposal :

**The planning proposal is not a result of any strategic study or report. The proposal relates to three minor amendments, which have arisen as a result of continued monitoring of the LEP's accuracy. The proposed amendments are listed as follows.**

**1.760 Woodburn-Evans Head Road, Evans Head:**

**The proposal seeks to rezone the subject site from IN1 General Industrial to RU1 Primary Production, amend the minimum lot size from 5000 m2 to 40 ha and include the subject site on the Dwelling Opportunities map. During the preparation of the Richmond Valley LEP 2012 Council zoned the site to IN1 General Industrial, to ensure consistency with the adjoining zone. Council at the time considered the land would have redevelopment opportunities. Since the IN1 General Industrial zone was applied the owners are unable to refinance a residential loan. The financial institution will only issue business loans to commercial or industrial zoned land. Given the unnecessary financial hardship and as no consultation with the owners occurred during the development of the Richmond Valley LEP, the RPA considers it necessary to zone the land to its previous equivalent zone of RU1 Primary Production.**

**2. 3280 Busbys Flat Road, Busbys Flat:**

**The proposal seeks to zone the subject site from RU3 Forestry to RU1 Primary Production and W1 Natural Waterways and apply a minimum lot size of 100 ha to the RU1 Primary Production zone. During the preparation of the Richmond Valley LEP 2012 Council zoned land previously zoned as 1(f) Forestry zone under the former LEP to the RU3 Forestry zone. The RU3 Forestry zone applies only to state forests. The subject site is a private forestry operation and was zoned in error. Therefore, given the use of the land the appropriate zoning for the subject site is RU1 Primary Production. The change in the zone further necessitates applying the W1 Natural Waterways zone to Busbys Creek which provides consistency with the application of this zone to the adjoining land.**

**3. Broadwater National Park:**

**The proposal seeks to correct the zoning map on land located at Broadwater National Park from SP2 Infrastructure (Waste or Resource Management Facility) to E1 National Parks and Nature Reserves. The proposal is the result of an error in the NSW Land Property Information Digital Cadastre. The cadastre was recently updated due to the Pacific Highway realignment at Broadwater. As a result an error was detected on the boundary of the Broadwater Landfill site and the Broadwater National Park. The planning proposal seeks to correct the zoning for 4000 m2 of land in Broadwater National Park.**

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Consistency with strategic planning framework :

**Far North Coast Regional Strategy (FNCRS)**

The proposed amendments are generally consistent with the FNCRS. The proposed changes to the zoning of properties and the minimum lot size controls are of minor significance and will rectify anomalies. The rezoning amendments in the proposal are the result of errors made during the development of the Richmond Valley LEP 2012.

**Consistency with Council's Local Strategies**

The Proposal is not inconsistent with the RPA's local strategies or its community strategic plan including the Richmond Valley Towards 2025 - Community Strategic Plan.

**SEPPs**

The RPA identified SEPP (Rural Lands) as applying to two (2) of the amendments. While SEPP (Rural Lands) applies to the subject land, the proposed amendments to the LEP are not inconsistent with this SEPP.

**S117 Directions**

The following S117 directions are applicable to the proposal, 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.5 Rural Land, 2.1 Environmental Protection Zones, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies.

Of the above s117 Directions the proposal is inconsistent with Directions 1.1 and 4.4. However, the inconsistency of the proposal with the directions is considered minor in nature and therefore justified as discussed in detail below.

Direction 1.1 Business and Industrial Zones is relevant to the proposal. The direction provides that a planning proposal must not reduce the floor space area of industrial zones.

Amendment 1 seeks to rezone land from IN1 General Industrial to RU1 Primary Production. The direction provides that the planning proposal may be inconsistent with the terms of the direction if it is of minor significance. As previously stated this is to correct an error made during the preparation of the Richmond Valley LEP 2012. Therefore the inconsistency is considered to be of minor significance and justified in accordance with the terms of the direction.

Direction 4.4 Planning for Bushfire Protection is relevant to certain aspects of the planning proposal including land that has been identified as being bush fire prone. Lot 475 DP755624 (amendment 1) is located on the outer edge of a 100 metre buffer to Bush Fire Prone (Vegetation Category 1) and Lot 11 DP777379 (amendment 2) is located within Bush Fire Prone Vegetation Category 1.

The direction provides that the RPA must consult with the Commissioner of the NSW Rural Fire Service, and the draft plan must include provisions relating to bushfire control. Consultation with the RFS is required after the Gateway determination is issued and until this consultation has occurred the inconsistency of the proposal with the direction remains unresolved.

The proposal is otherwise consistent with S117 Directions.

Environmental social economic impacts :

**Environmental Impacts**

The planning proposal will not have any direct adverse impact on critical habitat or threatened species, populations or ecological communities, or their habitats. Similarly the planning proposal will not have any direct adverse effect on the natural, built or socio-economic environment. Amendment 3 within the proposal include objectives to protect Broadwater National Park. The proposal does not include any amendment which will result in an intensification of development potential over land which may have the potential for indirect effects on the natural and socioeconomic environments.

**Economic Impacts**

The planning proposal has given consideration to economic impacts of the proposed amendments to the Richmond Valley LEP 2012. The RPA suggests that the economic

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impacts were taken into consideration in amendment 1 as the owners of the subject site were placed under unnecessary hardship due to the incorrect zoning. Therefore the updating of the LEP is to ensure an accurate and current document is in the best interest of the community.

**Social Impacts**

The amendments are minor in nature and therefore will not result in significant social impacts from the proposed rezoning.

**Assessment Process**

Proposal type : **Minor** Community Consultation Period : **14 Days**  
 Timeframe to make LEP : **6 months** Delegation : **RPA**  
 Public Authority Consultation - 56(2)(d) : **Other**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

**No internal consultation required**

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

**Documents**

Document File Name	DocumentType Name	Is Public
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**Planning Team Recommendation**

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

- S.117 directions:
- 1.1 Business and Industrial Zones**
  - 1.2 Rural Zones**
  - 1.5 Rural Lands**
  - 2.1 Environment Protection Zones**
  - 4.1 Acid Sulfate Soils**
  - 4.3 Flood Prone Land**

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**4.4 Planning for Bushfire Protection  
5.1 Implementation of Regional Strategies**

Additional Information :

- It is recommended that;**
- 1. The planning proposal should proceed as a minor planning proposal.**
  - 2. The planning proposal is to be completed within 6 months.**
  - 3. That a community consultation period of 14 days is necessary.**
  - 4. That the RPA consult with the Office of the Environment and Heritage (National Parks and Wildlife Service) in relation to the proposed amendments that affect land owned by this authority.**
  - 5. It is recommended that a delegate of the Secretary agree that the inconsistency of the proposal with S117 Direction 1.1 is justified in accordance with the provisions of the direction.**
  - 6. The RPA consult with the Commissioner of the NSW Rural Fire Services in accordance with S117 Direction 4.4 Planning for Bush Fire Protection.**
  - 7. A written authorisation to exercise delegation is Issued to Richmond Valley Council in this instance to enable Council to make the plan.**

Supporting Reasons :

- The reasons for the recommendation are as follows;**
- 1. The proposed amendments will ensure an accurate and current LEP for Richmond Valley which will provide confidence and clarity in the planning controls.**
  - 2. The inconsistencies of the proposal with the S117 Directions are of minor significance**

Signature:



Printed Name:

PAUL CARNETT

Date:

26/11/15

*Acting Team Leader, NH Region*